

AMENDED IN SENATE MAY 4, 2009
AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 544

**Introduced by Committee on Judiciary (Senators Corbett (Chair),
Florez, Harman, Leno, and Walters)**

February 27, 2009

An act to amend ~~Section 1798.79 of the Civil Code~~, Sections 6200, 6203, and 6204 of the Business and Professions Code, to amend Sections 1219 and 1798.79 of the Civil Code, to amend Section 706.108 of the Code of Civil Procedure, to amend Section 68516 of the Government Code, and to amend Section 2620 of the Probate Code, relating to civil law.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Committee on Judiciary. Civil law: omnibus bill.

(1) *The State Bar Act provides that the Board of Governors of the State Bar shall establish, maintain, and administer a system for arbitration and mediation of disputes concerning fees or costs, or both, between attorneys and their clients.*

This bill would make technical, nonsubstantive changes to these provisions.

(2) *Existing law provides that certain documents or papers related to oil and gas leases, as provided, that are presented for recordation and set apart and separated from any other writing, typing, or printing, shall not be recorded if that document is preceded by the words or clearly marked "do not record" or "not to be recorded," as specified.*

This bill would remove this provision and would make nonsubstantive, technical changes to related provisions.

~~Existing~~

(3) *Existing* law provides that a person or entity that intentionally remotely reads or attempts to remotely read a person's identification document using radio frequency identification (RFID) without his or her knowledge and prior consent, as described, shall be punished by imprisonment in a county jail for up to one year, a fine of not more than \$1,500, or both that fine and imprisonment, except as specified. Existing law also provides that a person or entity that knowingly discloses, or causes to be disclosed, specified operational system keys shall be punished by imprisonment in a county jail for up to one year, a fine of not more than \$1,500, or both that fine and imprisonment.

This bill would correct a cross-reference within these provisions.

(4) *Existing* law permits a judgment creditor to apply for an earnings withholding order for a judgment debtor and prescribes a process for this purpose. Existing law requires, as part of this process, that certain items be filed with the levying officer within 5 days after service of the order on the judgment debtor's employer.

This bill would provide that the items be filed with the levying officer, as described above, within 5 court days.

(5) Existing law authorizes the Judicial Council to establish a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, qualified under federal and state law to receive grants or other financial support from private or public sources for the purposes of undertaking or funding any survey, study, publication, proceeding, or other activity authorized by law to be undertaken by the Judicial Council. Existing law also authorizes the Administrative Office of the Courts to provide administrative support and oversight services, limited to ministerial support for meetings, and preparing, maintaining, and presenting financial records as needed for audits, to a tax-exempt public benefit nonprofit corporation or other tax-exempt entity established under these provisions, as specified.

This bill would authorize Judicial Council to establish a tax-exempt public benefit nonprofit corporation, or other tax-exempt entity, as provided, for the purpose of undertaking or funding any activity authorized by Judicial Council. This bill would also remove the limitation on the administrative and support services that can be provided by the Administrative Office of the Courts.

(6) Existing law requires a guardian or conservator to present an accounting of the assets of the estate of the ward or conservatee to the court for settlement and allowance in a specified manner at the end of

one year from the time of appointment and, after that, not less frequently than once every 2 years, unless otherwise ordered by the court to be more frequent. Existing law requires the guardian or conservator to file specified supporting documents with the accounting. Existing law requires the filing to include all account statements showing the account balance at the beginning of the accounting period and the account balance as of the closing date, as specified.

This bill would remove the requirement to show all account statements showing the account balance at the beginning of the accounting period.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 6200 of the Business and Professions*
2 *Code is amended to read:*

3 6200. (a) The board of governors shall, by rule, establish,
4 maintain, and administer a system and procedure for the arbitration,
5 and may establish, maintain, and administer a system and procedure
6 for mediation of disputes concerning fees, costs, or both, charged
7 for professional services by members of the State Bar or by
8 members of the bar of other jurisdictions. The rules may include
9 provision for a filing fee in ~~such~~ *the* amount as the board may,
10 from time to time, determine.

11 (b) This article shall not apply to any of the following:

12 (1) Disputes where a member of the State Bar of California is
13 also admitted to practice in another jurisdiction or where an
14 attorney is only admitted to practice in another jurisdiction, and
15 he or she maintains no office in the State of California, and no
16 material portion of the services were rendered in the State of
17 California.

18 (2) Claims for affirmative relief against the attorney for damages
19 or otherwise based upon alleged malpractice or professional
20 misconduct, except as provided in subdivision (a) of Section 6203.

21 (3) Disputes where the fee or cost to be paid by the client or on
22 his or her behalf has been determined pursuant to statute or court
23 order.

24 (c) Unless the client has agreed in writing to arbitration under
25 this article of all disputes concerning fees, costs, or both, arbitration
26 under this article shall be voluntary for a client and shall be

1 mandatory for an attorney if commenced by a client. Mediation
2 under this article shall be voluntary for an attorney and a client.

3 (d) The board of governors shall adopt rules to allow arbitration
4 and mediation of attorney fee and cost disputes under this article
5 to proceed under arbitration and mediation systems sponsored by
6 local bar associations in this state. Rules of procedure promulgated
7 by local bar associations are subject to review by the board *or a*
8 *committee designated by the board* to insure that they provide for
9 a fair, impartial, and speedy hearing and award.

10 (e) In adopting or reviewing rules of arbitration under this
11 section the board shall provide that the panel shall include one
12 attorney member whose area of practice is either, at the option of
13 the client, civil law, if the attorney's representation involved civil
14 law, or criminal law, if the attorney's representation involved
15 criminal law, as follows:

16 (1) If the panel is composed of three members the panel shall
17 include one attorney member whose area of practice is either, at
18 the option of the client, civil or criminal law, and shall include one
19 lay member.

20 (2) If the panel is composed of one member, that member shall
21 be an attorney whose area of practice is either, at the option of the
22 client, civil or criminal law.

23 (f) In any arbitration or mediation conducted pursuant to this
24 article by the State Bar or by a local bar association, pursuant to
25 rules of procedure approved by the board of governors, an arbitrator
26 or mediator, as well as the arbitrating association and its directors,
27 officers, and employees, shall have the same immunity which
28 attaches in judicial proceedings.

29 (g) In the conduct of arbitrations under this article the arbitrator
30 or arbitrators may do all of the following:

31 (1) Take and hear evidence pertaining to the proceeding.

32 (2) Administer oaths and affirmations.

33 (3) ~~Compel, by subpoena,~~ *Issue subpoenas* for the attendance
34 of witnesses and the production of books, papers, and documents
35 pertaining to the proceeding.

36 (h) Participation in mediation is a voluntary consensual process,
37 based on direct negotiations between the attorney and his or her
38 client, and is an extension of the negotiated settlement process.
39 All discussions and offers of settlement are confidential and may
40 not be disclosed in any subsequent arbitration or other proceedings.

SEC. 2. *Section 6203 of the Business and Professions Code is amended to read:*

6203. (a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy. The award shall not include any award to either party for costs or attorney's fees incurred in preparation for or in the course of the fee arbitration proceeding, notwithstanding any contract between the parties providing for such an award or costs or attorney's fees. However, the filing fee paid may be allocated between the parties by the arbitrators. This section shall not preclude an award of costs or attorney's fees to either party by a court pursuant to subdivision (c) of this section or of subdivision (d) of Section 6204. The State Bar, or the local bar association delegated by the State Bar to conduct the arbitration, shall deliver to each of the parties with the award, an original declaration of service of the award.

Evidence relating to claims of malpractice and professional misconduct, shall be admissible only to the extent that those claims bear upon the fees, costs, or both, to which the attorney is entitled. The arbitrators shall not award affirmative relief, in the form of damages or offset or otherwise, for injuries underlying ~~any such~~ *the* claim. Nothing in this section shall be construed to prevent the arbitrators from awarding the client a refund of unearned fees, costs, or both previously paid to the attorney.

(b) Even if the parties to the arbitration have not agreed in writing to be bound, the arbitration award shall become binding upon the passage of 30 days after ~~mailing~~ *service* of notice of the award, unless a party has, within the 30 days, sought a trial after arbitration pursuant to Section 6204. If an action has previously been filed in any court, any petition to confirm, correct, or vacate the award shall be to the court in which the action is pending, and may be served by mail on any party who has appeared, as provided in Chapter 4 (commencing with Section 1003) of Title 14 of Part 2 of the Code of Civil Procedure; otherwise it shall be in the same manner as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure. If no action is pending in any court, the award may be confirmed, corrected, or vacated by petition to the court having jurisdiction over the amount of the arbitration award, but otherwise in the same manner as

1 provided in Chapter 4 (commencing with Section 1285) of Title
2 9 of Part 3 of the Code of Civil Procedure.

3 (c) Neither party to the arbitration may recover costs or
4 attorney's fees incurred in preparation for or in the course of the
5 fee arbitration proceeding with the exception of the filing fee paid
6 pursuant to subdivision (a) of this section. However, a court
7 confirming, correcting, or vacating an award under this section
8 may award to the prevailing party reasonable fees and costs
9 incurred in obtaining confirmation, correction, or vacation of the
10 award including, if applicable, fees and costs on appeal. The party
11 obtaining judgment confirming, correcting, or vacating the award
12 shall be the prevailing party except that, without regard to
13 consideration of who the prevailing party may be, if a party did
14 not appear at the arbitration hearing in the manner provided by the
15 rules adopted by the board of governors, that party shall not be
16 entitled to attorney's fees or costs upon confirmation, correction,
17 or vacation of the award.

18 (d) (1) In any matter arbitrated under this article in which the
19 award is binding or has become binding by operation of law or
20 has become a judgment either after confirmation under subdivision
21 (c) or after a trial after arbitration under Section 6204, or in any
22 matter mediated under this article, if: (A) the award, judgment, or
23 agreement reached after mediation includes a refund of fees or
24 costs, or both, to the client and (B) the attorney has not complied
25 with that award, judgment, or agreement the State Bar shall enforce
26 the award, judgment, or agreement by placing the attorney on
27 involuntary inactive status until the refund has been paid.

28 (2) The State Bar shall provide for an administrative procedure
29 to determine whether an award, judgment, or agreement should
30 be enforced pursuant to this subdivision. An award, judgment, or
31 agreement shall be so enforced if:

32 (A) The State Bar shows that the attorney has failed to comply
33 with a binding fee arbitration award, judgment, or agreement
34 rendered pursuant to this article.

35 (B) The attorney has not proposed a payment plan acceptable
36 to the client or the State Bar.

37 However, the award, judgment, or agreement shall not be so
38 enforced if the attorney has demonstrated that he or she (i) is not
39 personally responsible for making or ensuring payment of the
40 refund, or (ii) is unable to pay the refund.

1 (3) An attorney who has failed to comply with a binding award,
2 judgment, or agreement shall pay administrative penalties or
3 reasonable costs, or both, as directed by the State Bar. Penalties
4 imposed shall not exceed 20 percent of the amount to be refunded
5 to the client or one thousand dollars (\$1,000), whichever is greater.
6 Any penalties or costs, or both, that are not paid shall be added to
7 the membership fee of the attorney for the next calendar year.

8 (4) The board shall terminate the inactive enrollment upon proof
9 that the attorney has complied with the award, judgment, or
10 agreement and upon payment of any costs or penalties, or both,
11 assessed as a result of the attorney's failure to comply.

12 (5) A request for enforcement under this subdivision shall be
13 made within four years from the date (A) the arbitration award
14 was mailed, (B) the judgment was entered, or (C) the date the
15 agreement was signed. In an arbitrated matter, however, in no
16 event shall a request be made prior to 100 days from the date of
17 the service of a signed copy of the award. In cases where the award
18 is appealed, a request shall not be made prior to 100 days from the
19 date the award has become final as set forth in this section.

20 *SEC. 3. Section 6204 of the Business and Professions Code is*
21 *amended to read:*

22 6204. (a) The parties may agree in writing to be bound by the
23 award of arbitrators appointed pursuant to this article at any time
24 after the dispute over fees, costs, or both, has arisen. In the absence
25 of such an agreement, either party shall be entitled to a trial after
26 arbitration if sought within 30 days, pursuant to subdivisions (b)
27 and (c), except that if either party willfully fails to appear at the
28 arbitration hearing in the manner provided by the rules adopted
29 by the board of governors, that party shall not be entitled to a trial
30 after arbitration. The determination of willfulness shall be made
31 by the court. The party who failed to appear at the arbitration shall
32 have the burden of proving that the failure to appear was not
33 willful. In making its determination, the court may consider any
34 findings made by the arbitrators on the subject of a party's failure
35 to appear.

36 (b) If there is an action pending, the trial after arbitration shall
37 be initiated by filing a rejection of arbitration award and request
38 for trial after arbitration in that action within 30 days after ~~mailing~~
39 *service* of notice of the award. If the rejection of arbitration award
40 has been filed by the plaintiff in the pending action, all defendants

1 shall file a responsive pleading within 30 days following service
2 upon the defendant of the rejection of arbitration award and request
3 for trial after arbitration. If the rejection of arbitration award has
4 been filed by the defendant in the pending action, all defendants
5 shall file a responsive pleading within 30 days after the filing of
6 the rejection of arbitration award and request for trial after
7 arbitration. Service may be made by mail on any party who has
8 appeared; otherwise service shall be made in the manner provided
9 in Chapter 4 (commencing with Section 413.10) of Title 5 of Part
10 2 of the Code of Civil Procedure. Upon service and filing of the
11 rejection of arbitration award, any stay entered pursuant to Section
12 6201 shall be vacated, without the necessity of a court order.

13 (c) If no action is pending, the trial after arbitration shall be
14 initiated by the commencement of an action in the court having
15 jurisdiction over the amount of money in controversy within 30
16 days after ~~mailing~~ service of notice of the award. After the filing
17 of such an action, the action shall proceed in accordance with the
18 provisions of Part 2 (commencing with Section 307) of the Code
19 of Civil Procedure, concerning civil actions generally.

20 (d) The party seeking a trial after arbitration shall be the
21 prevailing party if that party obtains a judgment more favorable
22 than that provided by the arbitration award, and in all other cases
23 the other party shall be the prevailing party. The prevailing party
24 may, in the discretion of the court, be entitled to an allowance for
25 reasonable attorneys' fees and costs incurred in the trial after
26 arbitration, which allowance shall be fixed by the court. In fixing
27 the attorneys' fees, the court shall consider the award and
28 determinations of the arbitrators, in addition to any other relevant
29 evidence.

30 (e) Except as provided in this section, the award and
31 determinations of the arbitrators shall not be admissible nor operate
32 as collateral estoppel or res judicata in any action or proceeding.

33 *SEC. 4. Section 1219 of the Civil Code is amended to read:*

34 1219. Oil and gas leases may be acknowledged or proved,
35 certified and recorded in like manner and with like effect, as grants
36 of real ~~property; provided, however, that~~ property. *However*, an
37 oil and gas lease may be recorded and constructive notice of the
38 same and the contents ~~thereof of that lease~~ given in the following
39 manner:

Any person may record in the office of county recorder of any county fictitious oil and gas leases. ~~Such~~ Those fictitious oil and gas leases need not be acknowledged, or proved, or certified, to be recorded or entitled to record. ~~Such oil~~ Oil and gas leases shall have noted upon the face thereof that they are fictitious. The county recorder shall index and record ~~such~~ fictitious oil and gas leases in the same manner as other oil and gas leases are recorded, and shall note on all indices and records of the same that they are fictitious. Thereafter, any of the provisions of any ~~such~~ recorded fictitious oil and gas lease may be included for any and all purposes in any oil and gas lease by reference therein to ~~any such those~~ provisions, without setting the same forth in full; ~~provided, such, if the~~ fictitious oil and gas lease is of record in the county in which the oil and gas lease adopting or including by reference any of the provisions ~~thereof of the lease~~ is recorded. ~~Such~~ The reference shall contain a statement, as to each county in which the oil and gas lease containing such a reference is recorded, of the date ~~such the~~ fictitious oil and gas lease was recorded, the county recorder's office ~~wherein in which~~ it is recorded, and the book or volume and the first page of the records or the recorder's instrument number in the recorder's office ~~wherein and at which any such in which~~ the fictitious oil and gas lease was recorded, and a statement by paragraph numbers or any other method that will definitely identify the same, of the specific provisions of any ~~such~~ fictitious oil and gas lease that are being ~~so~~ adopted and included therein. The recording of any ~~such~~ oil and gas lease which has included ~~therein~~ any ~~such~~ provisions by reference ~~as aforesaid~~ shall operate as constructive notice of the whole ~~thereof~~ including the terms, as a part of the written contents of any ~~such~~ oil and gas lease, of any ~~such~~ provisions so included by reference as though the same were written in full therein. The parties bound or to be bound by provisions so adopted and included by reference shall be bound thereby in the same manner and with like effect for all purposes as though ~~such the~~ provisions had been and were set forth in full in ~~any such the~~ oil and gas lease.

~~Whenever a document or paper is presented for recordation on which is set forth, apart and separated from any other writing, typing or printing thereon (1) an oil and gas lease that refers to and incorporates therein provisions of a fictitious oil and gas lease as provided herein, or (2) an oil and gas lease that refers to and~~

1 incorporates therein provisions of some other instrument
2 theretofore recorded in the office of any county recorder, and
3 (3) such oil and gas lease, set forth on such document or paper,
4 is, of itself, entitled to recordation, then any such other writing,
5 typing or printing on such document or paper, whether on the
6 reverse side from where such oil and gas lease is set forth or on
7 the same side thereof or on the following pages, shall not be
8 recorded by the county recorder to whom such document or paper
9 is presented for recordation if such other writing, typing or printing
10 is preceded by the words or clearly marked, “do not record” or
11 “not to be recorded” or the like. In such case the county recorder
12 shall record only the oil and gas lease set forth on such paper or
13 document and shall not be liable for so doing, any other provisions
14 of law to the contrary notwithstanding.

15 **SECTION 4.**

16 *SEC. 5.* Section 1798.79 of the Civil Code is amended to read:

17 1798.79. (a) Except as provided in this section, a person or
18 entity that intentionally remotely reads or attempts to remotely
19 read a person’s identification document using radio frequency
20 identification (RFID), for the purpose of reading that person’s
21 identification document without that person’s knowledge and prior
22 consent, shall be punished by imprisonment in a county jail for up
23 to one year, a fine of not more than one thousand five hundred
24 dollars (\$1,500), or both that fine and imprisonment.

25 (b) A person or entity that knowingly discloses, or causes to be
26 disclosed, the operational system keys used in a contactless
27 identification document system shall be punished by imprisonment
28 in a county jail for up to one year, a fine of not more than one
29 thousand five hundred dollars (\$1,500), or both that fine and
30 imprisonment.

31 (c) Subdivision (a) shall not apply to:

32 (1) The reading of a person’s identification document for triage
33 or medical care during a disaster and immediate hospitalization or
34 immediate outpatient care directly related to a disaster, as defined
35 by the local emergency medical services agency organized under
36 Section 1797.200 of the Health and Safety Code.

37 (2) The reading of a person’s identification document by a health
38 care professional for reasons relating to the health or safety of that
39 person or an identification document issued to a patient by
40 emergency services.

1 (3) The reading of an identification document of a person who
2 is incarcerated in the state prison or a county jail, detained in a
3 juvenile facility operated by the Division of Juvenile Facilities in
4 the Department of Corrections and Rehabilitation, or housed in a
5 mental health facility, pursuant to a court order after having been
6 charged with a crime, or to a person pursuant to a court-ordered
7 electronic monitoring.

8 (4) Law enforcement or government personnel who need to
9 read a lost identification document when the owner is unavailable
10 for notice, knowledge, or consent, or those parties specifically
11 authorized by law enforcement or government personnel for the
12 limited purpose of reading a lost identification document when
13 the owner is unavailable for notice, knowledge, or consent.

14 (5) Law enforcement personnel who need to read a person's
15 identification document after an accident in which the person is
16 unavailable for notice, knowledge, or consent.

17 (6) Law enforcement personnel who need to read a person's
18 identification document pursuant to a search warrant.

19 (d) Subdivision (a) shall not apply to a person or entity that
20 unintentionally remotely reads a person's identification document
21 using RFID in the course of operating a contactless identification
22 document system unless it knows it unintentionally read the
23 document and thereafter intentionally does any of the following
24 acts:

25 (1) Discloses what it read to a third party whose purpose is to
26 read a person's identification document, or any information derived
27 therefrom, without that person's knowledge and consent.

28 (2) Stores what it read for the purpose of reading a person's
29 identification document, or any information derived therefrom,
30 without that person's knowledge and prior consent.

31 (3) Uses what it read for the purpose of reading a person's
32 identification document, or any information derived therefrom,
33 without that person's knowledge and prior consent.

34 (e) Subdivisions (a) and (b) shall not apply to the reading,
35 storage, use, or disclosure to a third party of a person's
36 identification document, or information derived therefrom, in the
37 course of an act of good faith security research, experimentation,
38 or scientific inquiry, including, but not limited to, activities useful
39 in identifying and analyzing security flaws and vulnerabilities.

1 (f) Nothing in this section shall affect the existing rights of law
2 enforcement to access data stored electronically on driver's
3 licenses.

4 (g) The penalties set forth in subdivisions (a) and (b) are
5 independent of, and do not supersede, any other penalties provided
6 by state law, and in the case of any conflict, the greater penalties
7 shall apply.

8 *SEC. 6. Section 706.108 of the Code of Civil Procedure is*
9 *amended to read:*

10 706.108. (a) If a writ of execution has been issued to the county
11 where the judgment debtor's employer is to be served and the time
12 specified in subdivision (b) of Section 699.530 for levy on property
13 under the writ has not expired, a judgment creditor may deliver
14 an application for issuance of an earnings withholding order to a
15 registered process server who may then issue an earnings
16 withholding order.

17 (b) If the registered process server has issued the earnings
18 withholding order, the registered process server, before serving
19 the earnings withholding order, shall deposit with the levying
20 officer a copy of the writ of execution, the application for issuance
21 of an earnings withholding order, and a copy of the earnings
22 withholding order, and shall pay the fee provided by Section 26750
23 of the Government Code.

24 (c) A registered process server may serve an earnings
25 withholding order on an employer whether the earnings
26 withholding order was issued by a levying officer or by a registered
27 process server, but no earnings withholding order may be served
28 after the time specified in subdivision (b) of Section 699.530. In
29 performing this function, the registered process server shall serve
30 upon the designated employer all of the following:

31 (1) The original and one copy of the earnings withholding order.

32 (2) The form for the employer's return.

33 (3) The notice to the employee of the earnings withholding
34 order.

35 (4) A copy of the employer's instructions referred to in Section
36 706.127, except as otherwise prescribed in rules adopted by the
37 Judicial Council.

38 (d) Within five *court* days after service under this section, all
39 of the following shall be filed with the levying officer:

1 (1) The writ of execution, if it is not already in the hands of the
2 levying officer.

3 (2) Proof of service on the employer of the papers listed in
4 subdivision (c).

5 (3) Instructions in writing, as required by the provisions of
6 Section 687.010.

7 (e) If the fee provided by Section 26750 of the Government
8 Code has been paid, the levying officer shall perform all other
9 duties required by this chapter as if the levying officer had served
10 the earnings withholding order. If the registered process server
11 does not comply with subdivisions (b), where applicable, and (d),
12 the service of the earnings withholding order is ineffective and the
13 levying officer is not required to perform any duties under the
14 order and may terminate the order and may release any withheld
15 earnings to the judgment debtor.

16 (f) The fee for services of a registered process server under this
17 section shall be allowed as a recoverable cost pursuant to Section
18 1033.5.

19 *SEC. 7. Section 68516 of the Government Code is amended to*
20 *read:*

21 68516. (a) The Judicial Council is authorized to establish a
22 tax-exempt public benefit nonprofit corporation, or other
23 tax-exempt entity, qualified under federal and state law to raise
24 revenues and receive grants or other financial support from private
25 or public sources, for the purposes of undertaking or funding any
26 ~~survey, study, publication, proceeding, or other~~ activity authorized
27 ~~by law~~ to be undertaken by the Judicial Council. Financial support
28 sought by the nonprofit corporation or other tax-exempt entity
29 shall be used solely for the governmental purposes approved by
30 the Judicial Council for activities within the scope of authority of
31 the Judicial Council.

32 (b) The Administrative Office of the Courts may provide
33 administrative support and oversight services to a tax-exempt
34 public benefit nonprofit corporation or other tax-exempt entity
35 established under this section. ~~These support and oversight services~~
36 ~~shall be limited to ministerial support for meetings, and preparing,~~
37 ~~maintaining, and presenting financial records as needed for audits~~
38 ~~and other reporting requirements.~~ Any services provided shall be
39 consistent with current limitations and practices of public
40 employment.

1 *SEC. 8. Section 2620 of the Probate Code is amended to read:*

2 2620. (a) At the expiration of one year from the time of
3 appointment and thereafter not less frequently than biennially,
4 unless otherwise ordered by the court to be more frequent, the
5 guardian or conservator shall present the accounting of the assets
6 of the estate of the ward or conservatee to the court for settlement
7 and allowance in the manner provided in Chapter 4 (commencing
8 with Section 1060) of Part 1 of Division 3. By January 1, 2008,
9 the Judicial Council, in consultation with the California Judges
10 Association, the California Association of Superior Court
11 Investigators, the California State Association of Public
12 Administrators, Public Guardians, and Public Conservators, the
13 State Bar of California, and the California Society of Certified
14 Public Accountants, shall develop a standard accounting form, a
15 simplified accounting form, and rules for when the simplified
16 accounting form may be used. After January 1, 2008, all
17 accountings submitted pursuant to this section shall be submitted
18 on the Judicial Council form.

19 (b) The final court accounting of the guardian or conservator
20 following the death of the ward or conservatee shall include a court
21 accounting for the period that ended on the date of death and a
22 separate accounting for the period subsequent to the date of death.

23 (c) Along with each court accounting, the guardian or
24 conservator shall file supporting documents, as provided in this
25 section.

26 (1) For purposes of this subdivision, the term “account
27 statement” shall include any original account statement from any
28 institution, as defined in Section 2890, or any financial institution,
29 as defined in Section 2892, in which money or other assets of the
30 estate are held or deposited.

31 (2) The filing shall include all account statements showing the
32 account balance ~~at the beginning of the accounting period and the~~
33 ~~account balance~~ as of the closing date of the accounting period of
34 the court accounting. If the court accounting is the first court
35 accounting of the guardianship or conservatorship, the guardian
36 or conservator shall provide to the court all account statements
37 showing the account balance immediately preceding the date the
38 conservator or guardian was appointed and all account statements
39 showing the account balance as of the closing date of the first court
40 accounting.

1 (3) If the guardian or conservator is a private professional or
2 licensed guardian or conservator, the guardian or conservator shall
3 also file all original account statements, as described above,
4 showing the balance as of all periods covered by the accounting.

5 (4) The filing shall include the original, closing escrow statement
6 received showing the charges and credits for any sale of real
7 property of the estate.

8 (5) If the ward or conservatee is in a residential care facility or
9 a long-term care facility, the filing shall include the original bill
10 statements for the facility.

11 (6) This subdivision shall not apply to the public guardian if the
12 money belonging to the estate is pooled with money belonging to
13 other estates pursuant to Section 2940 and Article 3 (commencing
14 with Section 7640) of Chapter 4 of Part 1 of Division 7. Nothing
15 in this section shall affect any other duty or responsibility of the
16 public guardian with regard to managing money belonging to the
17 estate or filing accountings with the court.

18 (7) If any document to be filed or lodged with the court under
19 this section contains the ward's or conservatee's social security
20 number or any other personal information regarding the ward or
21 conservatee that would not ordinarily be disclosed in a court
22 accounting, an inventory and appraisal, or other nonconfidential
23 pleadings filed in the action, the account statement or other
24 document shall be attached to a separate affidavit describing the
25 character of the document, captioned "CONFIDENTIAL
26 FINANCIAL STATEMENT" in capital letters. Except as otherwise
27 ordered by the court, the clerk of the court shall keep the document
28 confidential except to the court and subject to disclosure only upon
29 an order of the court. The guardian or conservator may redact the
30 ward's or conservatee's social security number from any document
31 lodged with the court under this section.

32 (8) Courts may provide by local rule that the court shall retain
33 all documents lodged with it under this subdivision until the court's
34 determination of the guardian's or conservator's account has
35 become final, at which time the supporting documents shall be
36 returned to the depositing guardian or conservator or delivered to
37 any successor appointed by the court.

38 (d) Each accounting is subject to random or discretionary, full
39 or partial review by the court. The review may include
40 consideration of any information necessary to determine the

1 accuracy of the accounting. If the accounting has any material
2 error, the court shall make an express finding as to the severity of
3 the error and what further action is appropriate in response to the
4 error, if any. Among the actions available to the court is immediate
5 suspension of the guardian or conservator without further notice
6 or proceedings and appointment of a temporary guardian or
7 conservator or removal of the guardian or conservator pursuant to
8 Section 2650 and appointment of a temporary guardian or
9 conservator.

10 (e) The guardian or conservator shall make available for
11 inspection and copying, upon reasonable notice, to any person
12 designated by the court to verify the accuracy of the accounting,
13 all books and records, including receipts for any expenditures, of
14 the guardianship or conservatorship.